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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,777	05/14/2001	Edward O. Clapper	INTL-0565-US (P11336)	8168

7590 05/18/2005  
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HOUSTON, TX 77024-1805

EXAMINER

PIZARRO, RICARDO M

ART UNIT	PAPER NUMBER
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2661


DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/854,777

Applicant(s) 

CLAPPER, EDWARD O.

Examiner

Ricardo Pizarro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

**FINAL ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-3, 8-10 , 21-27, 28-30 are rejected under 35 U.S.C. 102(a) as being anticipated by US patent No, 6,129,276 (Jelen).

Regarding claim 1 Jelen discloses a Shopping cart mounted portable data device, comprising wirelessly linking a plurality of shopping carts ( shopping carts 18 within retail facility) within a retail facility ( retail store in Fig. 1, col 2 line 51) through a local area network ( LAN 88 in Fig. 1) based in the retail facility; and enabling the carts to exchange information through said network ( wireless LAN 88 uses a wireless link with shopping carts within retail facility, col 4 line 13 ).

Regarding claim 2, wherein wirelessly linking includes providing wireless access to a server by a plurality of carts within a retail facility ( LAN 88 provides wireless linking )

Regarding claim 3, including providing a processor-based device on a shopping cart to retail customers that wirelessly communicates with said server ( Customer information terminal 10 in Fig. 1).

Regarding claim 8, including providing information about the current location of a processor based device associated with a cart ( system determines whether the terminal 10 associated with shopping cart 18 has moved to a new location , col 9 line 56-57) .

Regarding claim 9, including providing information about the cart's location to the server ( cart location within the store, col 4 line 44).

Regarding claim 10, including pushing information to the cart depending on the cart's current location (request is a TCP/IP packet addressed to the server which includes the new location and instructions to launch a program on the server which determines whether to transmit -push- a new HTML page to the terminal col 9 lines 62-65) .

Regarding claim 21, a system comprising: a shopping cart ( Shopping cart 18 in Fig. 1) ; a processor mounted on said cart ( Processor in terminal device 10 mounted on cart in Fig. 1) ; and a storage coupled to said processor ( Memory 106 coupled to processor 32 in fig. 5) to wirelessly link a plurality of carts within a retail facility through a local area network based in the retail facility and enable carts to exchange information through said network ( wireless LAN 88 uses a wireless link with shopping carts within retail facility, col 4 line 13 ).

Regarding claim 22, including a housing, said processor mounted in said housing ( Housing 12 in Fig. 2).

Regarding claim 23, wherein said housing is adjustably mountable on said

cart ( Housing 12 is adjustably mounted on handle).

Regarding claim 24, wherein said cart includes a handle ( Handle 16) and said housing is mounted on said handle.

Regarding claim 26, further including a wireless transceiver( Transceiver 118 in Fig. 5), as in claim 25; further including an interface to enable network communications ( antenna interface in Fig. 5).

Regarding claim 27, including a position locating device coupled to said processor( Infrared receiver coupled to operates as a position locating device , col 9 lines 56-60) . Regarding claim 28, an audio transducer coupled to said terminal device ( audio transducer 130 in Fig. 5).

Regarding claim 29, including a card reader coupled to said processor ( Reader 22 in Fig. 5) .

Regarding claim 30, including a bar code scanner coupled to said processor ( Barcode in Fig. 5, col 2 line 12) .

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject

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matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-12 , 17-20 are, rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No, 6,129,276 (Jelen).

Regarding claim 11, an article that wirelessly links a plurality of shopping carts ( shopping carts 18 within retail facility) within a retail facility ( retail store in Fig. 1, col 2 line 51) through a local area network ( LAN 88 in Fig. 1) based in the retail facility; and enable the carts to exchange information through said network( wireless LAN 88 provides a wireless link within retail facility, col 4 line 13 ) .

Jelen did not specifically a medium for storing instruction to enable the processor-based system as disclosed in claims 11-20.

Therefore, in order to have a program o computer controlled process it would have been obvious to a person of ordinary skill in the art at the time of the invention that some kind of medium such as a memory or storage means would have been needed, with the motivation of obtaining a method for configuring a layer or protocol prior to commencement of data communications including an air interface that supports implementations of a variety of functions such as voice communications, and data.

Regarding claim 12, enabling the processor-based system to be accessed wirelessly by a plurality of carts within a retail facility ( LAN 88 provides wireless linking ) .

Regarding claim 17, enable the processor based system to push electronic files to the carts ( col 9 lines 62-65) .

Regarding claim 18, enable the processor-based system to provide information about the current location of a processor-based device associated with a cart ( system determines whether the terminal 10 associated with shopping cart 18 has moved to a new location , col 9 line 56-57) .

Regarding claim 19, enable the processor-based system to determine the cart's location (cart location within the store, col 4 line 44).

Regarding claim 7 and 20 enable the processor-based system to push information to a cart depending on the cart's current location(request is a TCP/IP packed addressed to the server which includes the new location and instructions to launch a program on the server which determines whether to transmit a new HTML page to the terminal , col 9 lines 62-65) .

4. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No, 6,129,276 (Jelen).

Jelen did not specifically disclose including enabling customers to activate said device by swiping a card through a slot in said device, as in claim 4; recognize a processor based device on a shopping cart used by a customer in response to a credit card swipe through a slot in said device, as in claim 13.

However Jelen discloses making use of a magnetic card to activate said device ( col 9 line 1), as in claim 4 and 13.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention than in view of the swiping of a magnetic card as disclosed by Jelen, that a credit card could have been used to enable a customer to activate said terminal device, this with the motivation of obtaining a secure mechanism that would allow the exchange of information residing in a customer portable terminal device that may be readily communicated with a supplier or merchant.

5. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No, 6,129,276 (Jelen).

Jelen did not specifically disclose including receiving audible communications from said carts , as in claim 5;said processor based system to receive audible communications from said carts, as in claim 14.

However , Jelen disclosed in the preferred embodiment data communication between the shopping cart 18 and the LAN 88 is accomplished through a radio frequency RF link ( col 4 lines 19-22) processor based system to receive audible communications from said carts, as in claims 5 and 14.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that due to the RF link between the LAN and the devices within the facility the Jelen reference would have been able to receive audible communications from said carts, with the motivation of obtaining a retail system that allows users to communicate through audible signals within said facility and obtain a mechanism by which inter exchange data between a retailer and a costumer.



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6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,129,276 (Jelen ) in view of US patent No. 6,386,450 (Ogasawara).

Jelen did not specifically disclose the system broadcasting files to said carts , as in claim 15.

However , Ogasawara discloses an Electronic shopping system, including the broadcasting of audio files to a customer portable terminal device in a retail facility ( col 5 lines 23-25 and 33-35), as in claim 15.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the broadcasting of audio files as disclosed by Ogasawara to a customer terminal device as the one disclosed by Jelen with the motivation of obtaining a retail system that is able to give directions to a customer on items to purchase based on the customer's current location within the retail facility.

7. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,129,276 (Jelen) in view of US patent No. 5,742,238 ( Fox)

Jelen did not specifically disclose enabling carts to communicate via messages with one another over said network, as in claims 6 and 16.

However Fox discloses a system for communication between a central controller and items in a factory, including a terminal device ( terminal device 12 in Fig. 1) that communicates via messages with one another over said network ( col 4 lines 61-67) , as in claims 6 and 16.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the text message means as disclosed by Fox to the

system disclosed by Jelen with the motivation of obtaining a retail system that allows users to enter and transmit messages containing short text strings from a device to another device within a network in the retail facility.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - US patent No. 6,435,407 discloses a computerized cart wherein carts exchange text messages with each other..
9. Applicant's arguments filed on 12/6/04 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., enabling the carts to communicate with one another) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant argues that the carts in Jelen cannot exchange information through the network, Examiner disagrees since all the carts within the network have the capability of communicating with the server through the network. Applicant argues that terminal in the Fox reference cannot communicate between them, However in Fox col 6 lines 41-47 it is disclosed that each of 4 switches 22,24,26 and

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28 are able to signal micro terminal 20 to generate messages which are sent to IRTs 9 through the micro terminal 12, therefore a communication is established between micro terminal 20 and 12.

**10. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**Any response to this final action should be mailed to:**

**Box AF**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-93106

(for formal communications; please mark "EXPEDITED PROCEDURE", for informal or draft communications, please label "PROPOSED" or "DRAFT" )

Hand-delivered responses should be brought to 22- 20<sup>th</sup> Street S, Crystal Plaza Two, Lobby, Room 1B03, Arlington , VA 22202 ( Customer window).

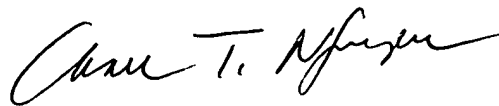
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is **(571) 272-3077**. The examiner can normally be reached on Monday-Thursday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Chau Nguyen** can be reached on (571) 272-3126.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

5/12/2005

Ricardo Pizarro



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